

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 373 of 1992

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

Nos.1 to 5 - No.

NARAYANDAS P PATEL

Versus

STATE OF GUJARAT

Appearance:

MR AS KOTHARI for Petitioner
MR ST MEHTA, ADDL. PUBLIC PROSECUTOR for Respondent No. 1
MR PM THAKKAR for Respondent No. 2, 4, 5
UNSERVED AS EXPIRED for Respondent No. 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 05/02/97

ORAL JUDGEMENT

This appeal arises of an order of acquittal made by the learned Judicial Magistrate, First Class, Bhavnagar on Criminal case No.1697 of 1980 on 30th November, 1989. Facts leading to the present appeal are as under:

The appellant herein filed a complaint against

one Patel Manu Raja, the appellant's wife Bhanumatiben and her parents Tulsi Bhagwan and Shardaben Tulsi for commission of an offence under sections 494, 497, 498, 114 and 34 of the Indian Penal Code. Considering the facts mentioned in the complaint, and the statements produced in support of the said complaint learned Judicial Magistrate, First Class, under his order dated 4-4-1986 discharged the accused of the charge under sections 494 and 114 of the Indian Penal Code under section 245 of the Criminal Procedure Code. The accused No.2 the wife of the complainant was discharged of the charge under section 497, 498 and 34 of the Indian Penal Code. Thus, accused No.2 was discharged of all the charges registered against her. A charge was framed against the accused No.1 for an offence under sections 497 and 34 of the Indian Penal Code and against accused Nos.3 & 4 for offences under sections 498 and 34 of the Indian Penal Code. Feeling aggrieved of the above order of discharge, the complainant preferred Criminal Revision application no.85/86 and the accused Nos.1, 3 and 4 preferred a criminal revision application No.65/86 against the charge framed against them. Both the revision applications were rejected by the learned Sessions Judge under his common judgment and order dated 26th August, 1987.

The accused Nos.1 and 3 and 4 were tried for offences committed under sections 497 and 34 and section 498 and 34 of the Indian Penal Code. The learned Judicial Magistrate considering the evidence led in course of the trial under his judgment and order dated 30th November,, 1989, acquitted all the accused. Feeling aggrieved the complainant has preferred this appeal.

The only evidence led by the prosecution was the deposition of the complainant and one Prabhaben. Complainant has deposed that he had seen the accused Nos.1 & 2 travelling together on a scooter. Witness Prabhaben has deposed that accused No.1 had engaged her as a cook for some 3 or 4 days and while she was there for half-an-hour in the afternoon the accused No.2 was also there. I believe that this evidences is not sufficient to prove an offence either under section 497 or under section 498. In my view, therefore, the learned Magistrate has rightly acquitted the accused as aforesaid.

This appeal is, therefore, dismissed.
